

**STATEMENT OF THE  
AMERICAN WATER WORKS ASSOCIATION**

**BEFORE THE  
ENVIRONMENT AND HAZARDOUS MATERIALS SUBCOMMITTEE  
COMMITTEE ON ENERGY AND COMMERCE  
U. S. HOUSE OF REPRESENTATIVES**

**CONCERNING  
H.R. 2567 - THE ANITFREEZE BITTERING ACT OF 2005**

**PRESENTED BY  
TOM BONACQUISTI  
DIRECTOR OF WATER QUALITY AND PRODUCTION  
FAIRFAX COUNTY WATER AUTHORITY  
FAIRFAX, VIRGINIA**

**MAY 23, 2006**

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**SUMMARY OF MAJOR POINTS**

1. AWWA commends efforts to protect children and animals from the dangers of ingesting antifreeze.
2. AWWA recommends a regulatory rather than a legislative process to identify an aversive agent for antifreeze.
3. AWWA strongly opposes the Limitation on Liability provisions of H.R. 2567, and strongly recommends that liability provisions be deleted from this bill.

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**INTRODUCTION**

Good morning Mr. Chairman. I am Tom Bonacquisti, Director of Water Quality and Production for the Fairfax County Water Authority in Fairfax, Virginia. I am here on behalf of the American Water Works Association (AWWA). AWWA commends you for holding this hearing and appreciates the opportunity to present its views on H.R. 2567 – The Antifreeze Bittering Act of 2005.

Founded in 1881, AWWA is the world's largest and oldest scientific and educational association representing drinking water supply professionals. Our membership, over 57,000 strong, is comprised of administrators, utility operators, professional engineers, contractors, manufacturers, scientists, professors, health professionals, and ordinary citizens. The association's membership includes over 4,800 utilities that provide over 80 percent of the nation's drinking water. AWWA and its members are dedicated to providing safe, reliable drinking water to the American people.

**ANTIFREEZE POISONING IN CHILDREN AND PETS**

AWWA commends your committee's efforts to protect children and animals from the dangers of ingesting antifreeze. We support efforts to find a solution to prevent the tragedies that occur when children or

animals ingest toxic doses of antifreeze. As an association of professionals dedicated to protecting public health, we can relate to the desire to ensure that children and animals don't accidentally ingest a poisonous compound. AWWA's members work every day to ensure that millions of Americans have safe, high quality water. We understand that if antifreeze had a bitter taste, some needless suffering and expense might be avoided.

In our statement today, we will not comment on how best to achieve the goal of protecting our children and pets from antifreeze poisoning or which bittering agent to use. Those issues lie outside our area of expertise. However, we do have serious reservations about statutorily mandating a specific bittering agent and specific concentrations of that agent. We generally believe those kinds of decisions should be left to the regulatory process in which all available scientific data can be examined and decisions can be made with opportunity for public review and comment outside an overtly political process.

We also have very serious concerns about language in the bill that waives the liability of any manufacturer, processor, seller, or recycler of antifreeze containing the prescribed aversive agent from any damages arising from natural resource or environmental damages. This provision is unwise, unsound, and unfair, and should be removed from the bill. In this statement, I will primarily address the liability issue, which is our chief concern with the bill.

### **LIMITATION ON LIABILITY**

H.R. 2567 requires the use of denatonium benzoate (DB) as a bittering agent for antifreeze. Little is known about the environmental fate and transport of DB. The Material Safety Data Sheet (MSDS) for commercial formulations of DB are not helpful on this matter as they contain little or no data on the fate and transport of this agent. According to the manufacturers, DB is biodegradable and is not known to bioaccumulate. However, studies by other researchers have found that the denatonium ion does not biodegrade during treatment in a typical wastewater treatment plant. Moreover, some research suggests that

to the extent degradation does occur, it is primarily the result of the breakdown of benzoate and that the denatonium ion, responsible for the aversive taste of the compound, is not easily biodegradable.

Studies also suggest that DB does not adhere to soil, but rather stays in and travels with the ground water. We believe it is reasonable to expect contamination problems as DB accumulates in the groundwater supplies. Given the extreme bitter properties of DB, it appears that tiny amounts of the chemical could render drinking water supplies bitter and unpalatable. One manufacturer's Material Safety Data Sheet states that in cases of accidental release, DB is to be kept out of water supplies and sewers.

Given the conflicting and inconclusive data on the fate and transport of DB, particularly in water, it would be very imprudent to provide far-reaching liability immunity to companies making or handling antifreeze containing this chemical or any other aversive agent.

A liability waiver is of particular concern because sooner or later, somewhere, and perhaps in many places, contamination of drinking water supplies is likely to occur. When that happens, drinking water utilities will be forced to treat or remove this compound from the water they deliver to their customers. Our customers will not accept the taste of antifreeze in their tap water.

When contamination occurs, drinking water utilities will be forced to change or add treatment or removal to get DB out of the drinking water. In severe cases, this could even require the abandonment of water supplies and the development of new sources. Increasingly, in many areas of the country such new sources are unavailable. Whatever a drinking water utility is forced to do, it is all but certain to increase the cost of the water in that community, perhaps significantly. The question will become, who should fairly bear that cost?

History is replete with examples of the unintended consequences of measures adopted to attain laudable goals. Perchlorate was added to munitions to make them more stable; however, perchlorate is now found to be contaminating drinking water supplies. MTBE (methyl tertiary butyl ether) was added to motor

fuels to reduce air pollution; however MTBE contaminated drinking water supplies in many areas of the country, and even minute quantities of MTBE made drinking water unpalatable. The cost of cleaning up MTBE-contaminated drinking water supplies is conservatively estimated at billions of dollars.

No one can know what the cost of removing DB from drinking water supplies might be, and I am not asserting that it would be billions of dollars. However, some contamination of water supplies by DB and some increased cost of treatment or removal, perhaps significant, is all but inevitable. It is also important to remember that antifreeze is used in large volumes in many industrial applications, such as airplane de-icing, and that large releases and widespread contamination of water supplies are possible.

Informed by the MTBE experience, we should seek to avoid DB becoming the problem that MTBE became. The impact of even small releases of DB on drinking water supplies is unknown. With a widespread mandate for the use of DB in antifreeze, the incidence of contaminated drinking water supplies can only increase. If this happens, it would be no more fair to excuse the companies making or handling antifreeze from liability than it would be to mandate that they be always liable. The question of liability is and should remain a decision that is made based on the facts of particular cases.

### **CONCLUSION**

In conclusion, AWWA recommends a regulatory rather than a legislative process to identify an aversive agent for antifreeze, strongly opposes the Limitation on Liability provisions of H.R. 2567, and strongly recommends that liability provisions be deleted from this bill.

AWWA and its members thank you for holding this hearing concerning H.R. 2567 – The Antifreeze Bittering Act of 2005. AWWA. And thank for you considering our views. We will be pleased to answer any questions or provide additional material for the committee.